

BUILDINGS & ROADS BRANCH

The 8th October, 1968

No. SE/Ambala/P.W.D./B and R/84-R.—Whereas it appears to the Governor of Haryana that land is likely to be required to be taken by the Government, at public expenses, for a public purpose, namely, for construction of training Works on High Level Bridge over Markanda River in mile No. 11 of Ambala-Jagadhri Road in Ambala District.

The notification is made under the provision of section IV of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana is pleased to authorise the officers for the time being engaged in the undertaking, with their servants and workmen, to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Land Acquisition Collector, Haryana P.W.D., B.&R. Branch, Ambala Cantt.

SPECIFICATION

District	Tehsil	Name of Village	Area	REMARKS
Ambala	Ambala	Palotha	1.16 Hec.	As demarcated at site

J. N. KAKAR,

Superintending Engineer,
Ambala Circle, Haryana, P.W.D.,
B.and R. Branch Ambala Cantt.

LABOUR DEPARTMENTS

The 10th October, 1968

No. 9339-3 Lab-68/25558.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and management of M/S Industriano Ltd., Gurgaon:—

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 6 by of 1968

Between

SHRI MAHESH KUMAR, WORKMAN, AND THE MANAGEMENT OF M/S INDUSTRIANO, LTD.,
GURGAON

Presents—Shri Darshan Singh, for the workman.

Shri S.L. Gupta, for the management.

AWARD

Shri Mahesh Kumar was in the service of M/s Industriano, Ltd., Gurgaon, as a Turner. His services were terminated because it was alleged that he intentionally broke a foreign maker Micrometre which is an expensive instrument. This gave rise to an industrial dispute and the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10, read with proviso to that sub-section of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—vide Government Gazette Notification No. 260-SFIII-Lab-67/dated 3rd July, 1967:—

Whether the termination of services of Shri Mahesh Kumar is justified and in order? If not, to what relief he is entitled?

This reference was registered as reference No. 49 of 1967. After recording the evidence produced by the parties and hearing their representative; an award, dated 20th February, 1968, was submitted to the Government which was in due course published in the Gazette,—vide Notification No. 2574-3.Lab-68/7267, dated 20th March, 1968. It was held that "the charge of breaking the Micrometre intentionally was not established by the evidence produced by the management and it must therefore be held that the order of the management terminating the services of the workman was not justified and in order". While deciding the question of relief and to determine the question as to whether the claimant was entitled to his back wages it was observed that "the circumstances in which the Micrometre fell and was broken was within the special knowledge of the workman and therefore the onus lay upon him to tell the Court under what circumstances the Micrometre fell but he has in a very unconcerned manner taken up the position that he could not explain how the Micrometre fell. It is therefore obvious that the workman is trying to suppress the truth and the only presumption that can be raised against the workman is that he was guilty of negligence and in my opinion therefore he does not deserve to be paid his wages for the period of his forced unemployment.

No order was specifically passed as to whether the workman deserved to be reinstated. Difference/doubts have arisen between the management of M/s Industriano Ltd; Gurgaon and its workman regarding the interpretation of the award of this Court referred to above over the question whether the workman named Shri Mahesh Kumar is automatically eligible to the relief of reinstatement consequent upon the decision of this Court that the order of the management terminating the services of the workman was not justified and in order. The Governor of Haryana therefore in exercise of the powers conferred under section 36-A of the Industrial Disputes Act, 1947, has been pleased to refer the following matter to this Court for clarification:—

Whether the workman named Shri Mahesh Kumar is automatically eligible to the relief of reinstatement consequent upon the decision of the said court that termination of services of the workman was not justified and in order?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. The representatives of the parties submitted that no further evidence was required in this case and they only wanted to address arguments because only the award of this Court, dated 20th February, 1968 in reference No. 49 of 1967 required interpretation of this Court in order to answer the reference. Accordingly the arguments of the learned representatives of the parties were heard.

On behalf of the management it is submitted that it has been held by this Court in so many words that the workman was guilty of negligence and therefore it could not be the intention of this Court while making the award that the workman should be reinstated. In my opinion there is no substance in this contention. While deciding the question as to whether the charge framed against the workman that he had intentionally broken the Micrometre and was therefore rightly dismissed it was observed that the charge of breaking the Micrometre intentionally was not established by the evidence produced by the management and it must therefore be held that the order of management terminating the services of the workman was not justified and in order.

The question as to whether the Micrometre was broken as a result of negligence was not before the Court nor any charge to this effect had been framed against the workman and therefore no decision could possibly be given on this point. Under issue No. 4 while deciding the question as to whether the workman was entitled to back wages or not, it was no doubt observed that "the circumstances in which the Micrometre fell and was broken was within the special knowledge of the workman and therefore the onus lay upon him to tell the Court under what circumstances the Micrometre fell but he has in a very unconcerned manner taken up the position that he could not explain how the Micrometre fell down. It is therefore obvious that the workman is trying to suppress the truth and the only presumption that can be raised against the workman is that he was guilty of negligence....". These observations can not be interpreted to mean that the Micrometre was broken by reason of the negligence of the workman because the question as to whether the Micrometre was broken as a result of negligence on the part of the workman was not even before the Court. These observations were only intended to mean that the workman was guilty of negligence in as much as he did not lead any evidence to show the circumstances under which the Micrometre fell and was broken although this fact was specially within his knowledge and for this reason he was not entitled to back wages. Therefore while considering the question of relief the workman was denied the relief of full back wages because he made no attempt to come out with the truth and satisfied the Court that he was not to be blame.

While giving the findings on issue No. 3 the intention of the Court was to give the relief of reinstatement of the workman named Shri Mahesh Kumar because the charge as framed against the workman was not proved and therefore the dismissal was not justified and in order. By inadvertence this relief was not given in so many words but the only conclusion that can be drawn from the observation of this Court while deciding issue No. 3 is that the workman named Shri Mahesh Kumar is automatically eligible to the relief of reinstatement consequent upon the decision of this Court that the order of the management terminating the services of the workman was not justified and in order. I give my decision accordingly. No order as to costs.

Dated the 6th September, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

No. 1713, dated the 26th September, 1968

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 6th September, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.